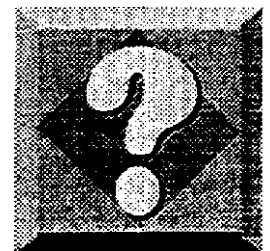


# 3

## Identifying Interests in Real Property and Reuse Planning

### *Frequently Asked Questions About Identifying Interests in Real Property and Reuse Planning*

- |   |             |
|---|-------------|
| ➤ <i>What is the general practice for <b>real property</b> disposal at BRAC installations?</i>                                      | Section 3.1 |
| ➤ <i>How does the Military Department determine whether there are DoD or Federal needs for property at the base?</i>                | Section 3.2 |
| ➤ <i>How are other property interests sought and identified?</i>  | Section 3.3 |
| ➤ <i>What information is required with a notice of interest?</i>  | Section 3.3 |
| ➤ <i>What information is typically contained in a redevelopment plan and how are <b>homeless assistance</b> needs incorporated?</i> | Section 3.4 |
| ➤ <i>How does HUD evaluate a redevelopment plan?</i>  | Section 3.5 |
| ➤ <i>What are the procedures for accommodating <b>homeless assistance needs</b> at BRAC 88, 91, and 93 installations?</i>           | Section 3.6 |



### 3.1 INTRODUCTION

The Department of Defense recognizes that to promote economic development and rapid job creation, it must expedite the process of making real property available for reuse at closing and realigning bases.

#### 3.1.1 Philosophy and goal

To speed the economic recovery of communities affected by base closures and realignments, it is DoD policy to identify the real property at closing and realigning military bases that will be made available to the local community as quickly as possible, and to enable the Local Redevelopment Authority to complete reuse planning based upon the community's needs. The Military Department having responsibility for the closing or realigning base shall identify the interest of DoD Components and Federal Agencies in portions of the affected

*What is DoD's philosophy and goal for real property disposal?*

facility. The Military Department will keep the LRA informed of its progress in identifying the real property to be made available to the community.

When real property becomes available at closing and realigning bases the Military Department will inform other DoD Components and other Federal Agencies of the potential availability of property at the closing base. All interested parties will be encouraged to contact and work with the LRA to have their needs considered as part of a comprehensive local planning process.

**What is the general practice for property disposal at BRAC installations ?**

### 3.1.2 A New Reuse Planning Process—General practice for BRAC 95

Under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (*hereinafter referred to as the “Redevelopment Act”*), a new community-based reuse planning process begins upon the final selection of the base for closure or realignment (“date of approval”). Through this process, the LRA identifies local reuse needs and creates a redevelopment plan for the Military Department to consider in the disposal of base property.

Figures 3-1 and 3-2 show some of the principal activities and milestones associated with the overall base reuse process. Although many of these milestones are prescribed by statute, service implementors should realize that, within legal limits, every effort should be made to accommodate the community’s particular circumstances. The LRA’s reuse planning activities and the Military Department screening activities can generally be grouped and described in terms of the number of months following the date of approval.

- **First 6 Months.** The Military Department will determine which parts of the base are not needed by the Department of Defense (“excess” property) or another Federal Agency (“surplus” property), and will publish a notice identifying the surplus property as being available for reuse, following this Federal screening process.
- **6 to 12 Months.** The LRA undertakes outreach to solicit notices of interest in the base from State and local governments, representatives of the homeless, and other interested parties. This outreach may include working with the Department of Housing and Urban Development (HUD) as well as the Federal Agencies that sponsor public benefit transfers. The LRA will prescribe the dates for receiving these notices, publicize them locally, and notify the Military Department.
- **12 to 18 Months.** After considering the notices of interest received, the LRA prepares a redevelopment plan, incorporating environmental considerations such as cleanup activities, natural resource concerns such as endangered or threatened species and habitat, and cultural and historical requirements. This plan identifies the LRA’s overall reuse strategy for the base. The LRA and the community, through public comment, must ensure that the plan adequately balances local community and economic development needs with those of the homeless.

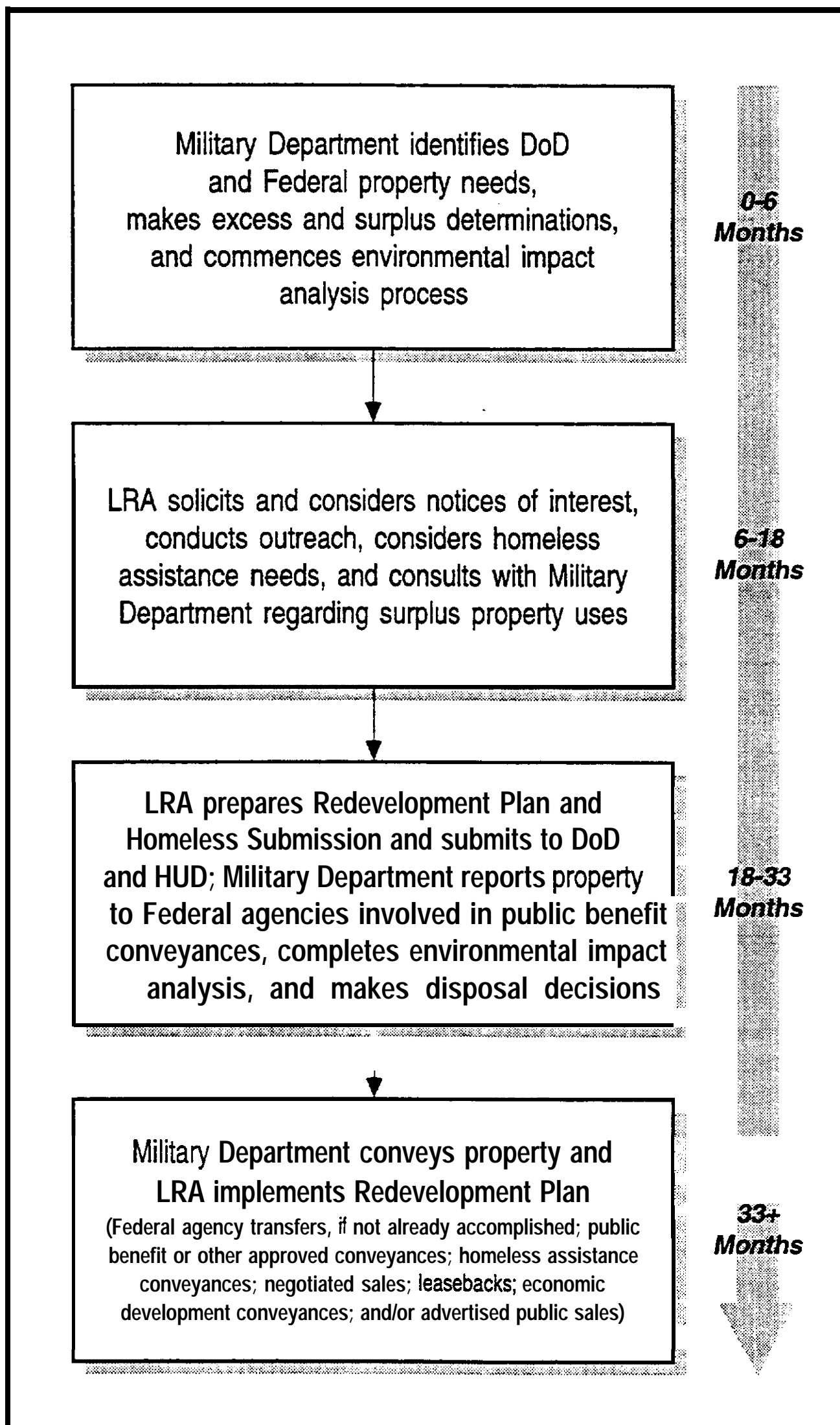
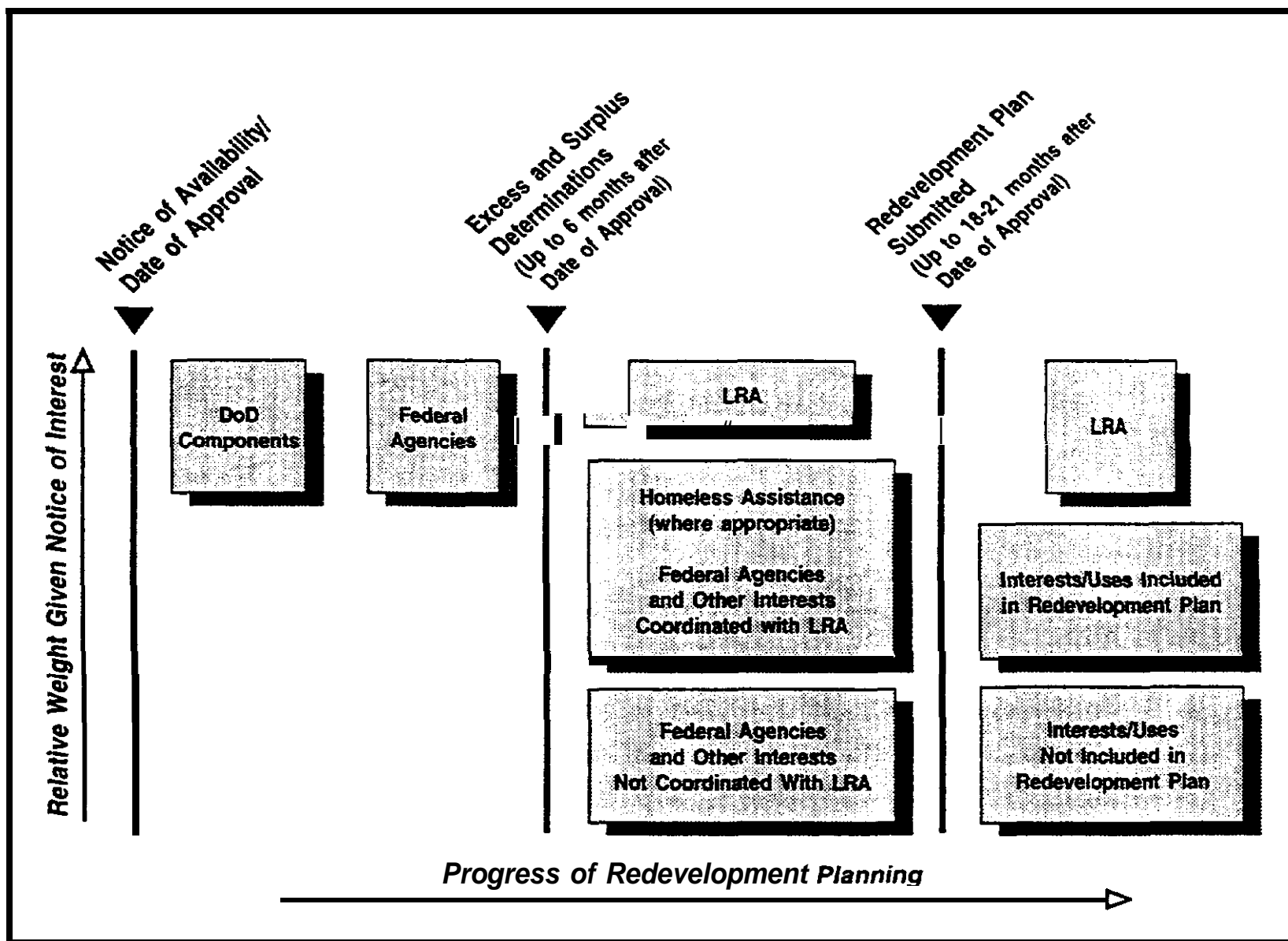


Figure 3-1. General Disposal Process Flow Diagram



**Figure 3-2. Milestones for Submitting and Considering Notices of Interest**

- Approximately 18 to 24 Months. The LRA's completed redevelopment plan is submitted to the Military Department. Not later than this time, the Military Department also notifies sponsoring Federal Agencies of property that may become available for public benefit conveyances. The LRA may request that the notification be done sooner and could find it helpful in identifying public interest in the property. This "screening" for public benefit users should be based upon the property uses outlined in the community redevelopment plan (see Section 3.5.4). The sponsoring Federal Agency will make recommendations to the Military Department on proposed users of property. The Military Department will, in turn, keep the LRA apprised of any interests.

The community's plan is also submitted to HUD as part of an application to help address the community's homeless needs. HUD will review the application to determine whether, in its judgment, the LRA has adequately balanced local community and economic development needs with those of the homeless. If HUD determines that the application does not strike this balance, the LRA will be provided with an opportunity to address HUD's concerns and revise its plan accordingly.

- Approximately 24+ Months. The Military Department will complete its environmental impact analysis no later than 12 months after receiving the LRA's redevelopment plan. In this analysis, the LRA's plan is normally used as a primary factor in the development of the proposed action, reasonable alternatives, and effects analysis. During the disposal and reuse decision phase, final Military Department disposal decisions will resolve any

competing requests for the property and will, in most cases, be consistent with the LRA's redevelopment plan. It is DoD and the Military Department's desire to have the LRA's local planning process resolve any conflicting land use proposals prior to the completion of the redevelopment plan. Once disposal decisions are made, the Military Department initiates final disposal actions in accordance with its disposal plan.

### 3.2 IDENTIFYING DoD AND FEDERAL PROPERTY NEEDS

The Military Departments are required by law (Section 2903 of Title XXIX of Pub. L. 103-160) to identify DoD and Federal property needs at closing and realigning installations no later than six months after the date of approval of closure or realignment.

*How does the Military Department determine whether there are DoD or Federal needs for property at the base?*

#### 3.2.1 Issuing notices of availability

##### NOTICE OF POTENTIAL AVAILABILITY

Upon the President's submission of the recommended list of base closures and realignments to Congress in accordance with the Defense Base Closure and Realignment Act of 1990 (Part A of Title XXIX of Pub. L. 101-510), the Military Department shall issue a notice of potential availability-including a list of property and buildings at closing or realigning installations that will potentially become available-to the other DoD Components and other Federal Agencies. This notice should be made available to the public, upon request. Potential recipients could include, but are not limited to, the LRA (if recognized), elected officials from the communities in the vicinity of the installation, the governor, local developers, and businesses. Federal Agencies are encouraged to review this list with regard to their prospective property requirements and to evaluate whether they might have a requirement for the listed properties. Any interest received should be forwarded to the LRA, if one exists. For installations that wholly or partially consist of withdrawn public domain lands (see *box below*), the Military Department should begin consulting with the Bureau of Land Management at this time.

#### Withdrawn Public Domain Lands

Withdrawn public domain lands are those lands that have been transferred from the Department of the Interior to a Military Department (i.e., withdrawn from the public domain) for military use. Public domain lands that are suitable for return to the public domain are not real property governed by the Federal Property and Administrative Services Act of 1949, as amended, and are not governed by the property management and disposal provisions of the Defense Base Closure and Realignment Act of 1990 or the Defense Authorization Amendments and Base Closure and Realignment Act of 1988. Public domain lands are under the jurisdiction of the Secretary of the Interior and administered by the Bureau of Land Management (BLM) unless the Secretary of the Interior has withdrawn the lands and reserved them for another Federal Agency's use.

The Military Department responsible for the closing installation will provide the BLM with the notice of potential availability, as well as information about which, if any, public domain lands will be affected by the installation's closing. The BLM will review the notice of potential availability to determine if any installations contain withdrawn public domain lands. Before the date of approval of the closure, the BLM will review its land records to identify any withdrawn public domain lands at the closing installation, and any record discrepancies between BLM and the Military Department

### Withdrawn Public Domain Lands (concluded)

should be resolved during this time period. The BLM will notify the Military Department of the final agreed-upon withdrawn public domain lands. Upon agreement on the withdrawn lands, the BLM will begin determining whether the lands are suitable for Department of the Interior programs.

The Military Department will transmit a Notice of Intent to Relinquish (43 CFR 2372) to the BLM as soon as the property is identified as excess to DoD needs. The BLM will complete its suitability determination within 30 days of receiving the Notice of Intent to Relinquish. If public domain lands are to be used by a DoD Component, BLM will determine whether the existing authority for DoD use must be modified.

If BLM determines that the land is suitable for return to the public domain, it shall notify the Military Department that the Secretary of the Interior will accept the Military Department's relinquishment. If the land is not found to be suitable for return to the public domain, the land will be disposed of pursuant to the authorities in the BRAC statutes.

Military Departments should consider LRA input in making determinations on the retention of property (i.e., the size of cantonment areas), if provided. Generally, determinations on the retention of property and the size of cantonment areas should be made prior to the date of approval of the closure. The Deputy Under Secretary of Defense (Industrial Affairs and Installations) must approve the proposed cantonment areas, unless such a retention is specifically authorized by the Defense Base Closure and Realignment Commission.

### Air Traffic Control and Air Navigation Equipment

Within 90 days of the notice of availability, the Federal Aviation Administration (FAA) will survey any air traffic control and air navigation equipment at the installation to determine what is needed to support the air traffic control, surveillance, and communications functions supported by the Military Department. The FAA will also identify the facilities needed to support the National Airspace System. FAA requests for property to manage the National Airspace System will not be subject to the application process described in Section 3.2.2; instead, the FAA will work with the Military Department to prepare an agreement to take over the facilities and obtain the real estate rights necessary to control the air space being relinquished by the Military Department.

#### NOTICE OF AVAILABILITY

Within one week of the date of approval of the closure, the Military Department shall issue an official notice of availability to other DoD Components and Federal Agencies. This notice will identify and describe the buildings and property ("real property") at the installation that will be available for transfer. This notice will contain substantially the same information as the notice of potential availability, but will confirm the property's availability. Withdrawn public domain lands that the Secretary of the Interior has determined to be suitable for return to the public domain (*as described above*) will not be included in this notice.

### Reversionary Rights

Property for military installations was sometimes obtained from State and local governments at a reduced price or at no cost. In such cases, the deed or other instrument conveying the property to the military may contain reversionary rights or reverter clauses that provide for return of the property to its former owner once the military need has ended. Therefore, the Military Department should review the provisions of its title(s) to the property in order to identify any pre-existing claims. If such claims or rights exist, the availability of the property for other Federal uses may be limited, and property subject to reversionary rights will generally not be available for disposal as surplus property. The mere fact that property had been donated to the military does not *per se* establish a reversionary right on the part of the donor.

Any interested DoD Component or Federal Agency is required to provide, within 30 **days** of the notice of availability, a written, **firm expression** of interest for identified real property (see Figure 3-3). An expression of interest must explain the intended use and corresponding requirement for the real property. Within 60 days from the date of the notice of availability, any interested DoD Component or Federal Agency ("requester") must submit a written request to the Military Department for transfer of such real property. If the requests are not made in a timely fashion, Federal interests can still be met at the base. In these cases, the Federal Agency needs to participate in the reuse planning process and request that its proposed use become part of the LRA's plan. (See Section 3.2.3 *below for information on withdrawing a surplus determination.*) The Military Department will keep the LR4 informed of the progress in identifying DoD and Federal interests in real property at the installation.

### Native American Indian Interests

Native American Indian interests in property at closing or realigning installations can be addressed through two processes

- Native American Indian tribes can submit expressions of interest to the Bureau of Indian Affairs (BIA), which is held to the same timetables and criteria as other Federal Agencies (described in this Section). For BRAC 95 installations, BIA has announced that it will **only** assist tribes at the Federal screening level if the tribe is located within the area economically effected by the closure and if the tribe itself is impacted by the closure. Interested tribes should contact BIA for information about its policy for expressions of interest.
- Tribal governments may participate in the local comprehensive planning process and express their **interests** to the LRA. Tribes adversely affected by the base closure should be part of the LRA and should work within this process to see their needs addressed through a single, comprehensive plan.

Interested DoD Components and Federal Agencies are encouraged to discuss with the LRA, if one exists, their plans and needs to determine the extent to which their proposed uses fit the anticipated redevelopment plan. Requesters are encouraged to notify the responsible Military Department of the results of this non-binding consultation. The Military Department, DoD Base Transition Coordinator (BTC), and Office of Economic Adjustment (OEA) Project Manager will facilitate coordination between Federal Agencies and DoD Components and the LRA.

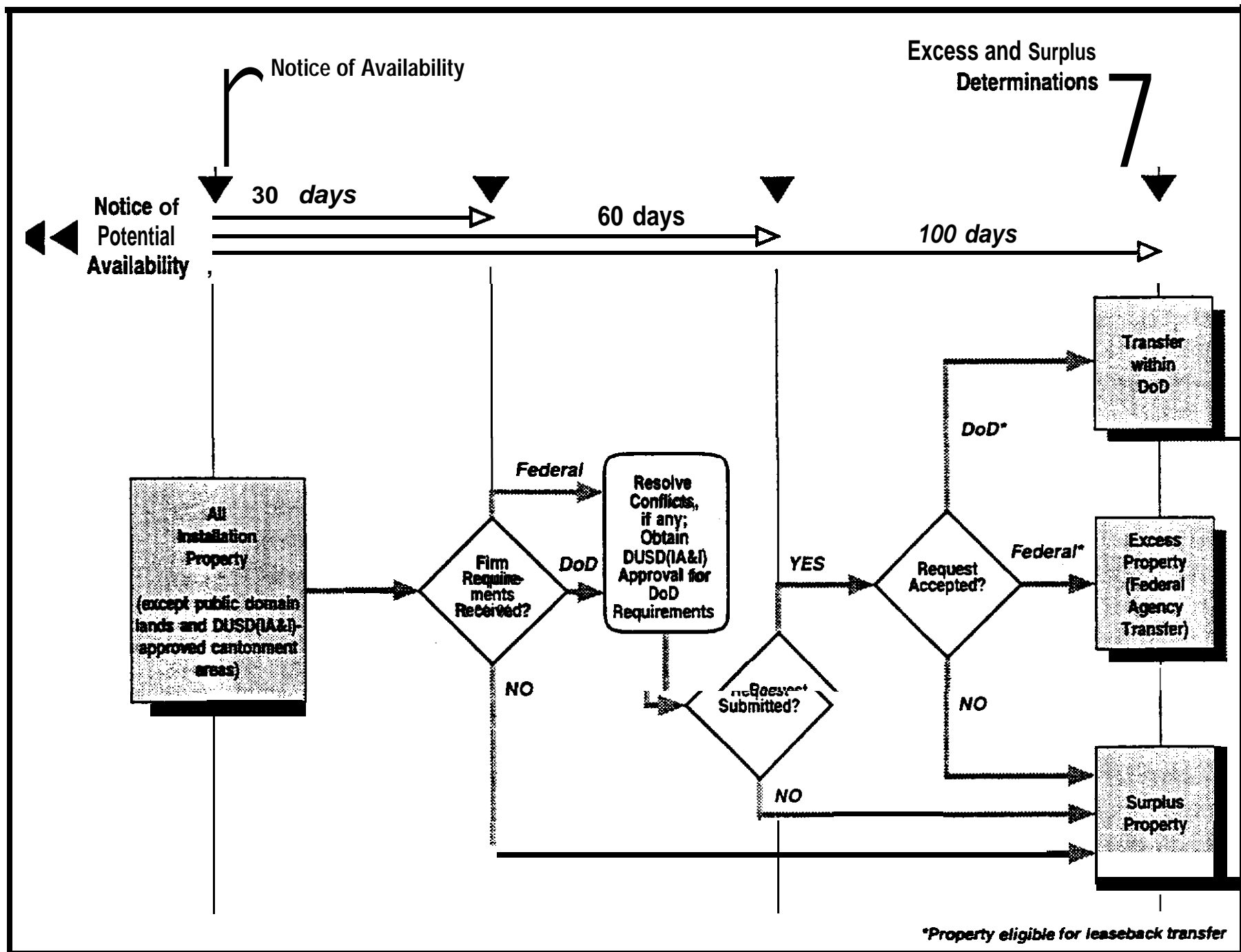


Figure 3-3. DoD and Federal Agency Screening Process

## 3.2.2 Receiving and evaluating requests for property

A request from a DoD Component or Federal Agency must contain the following:

What information is needed in DoD and Federal property requests?

“ A completed General Services Administration (GSA) Form 1334, “Request for Transfer of Excess Real and Related Personal Property” (for requests from other DoD Components a DD Form 1354 is required). This must be signed by the head of the component of the Department or Agency requesting the property. If the authority to acquire property has been delegated, a copy of the delegation must accompany the form.

- A statement from the head of the requesting component or Agency that the request does not establish a new program (i.e., one that has never been reflected in a previous budget submission or Congressional action).
- A statement that the requester has reviewed its real property holdings and cannot satisfy its requirement with existing property. This review must include all property under the requester’s accountability, including permits to other Federal Agencies and outleases to other organizations.



- A statement certifying that the requested property **would** provide greater long-term economic benefits than acquisition of a new facility or other property for the program.
- . A statement that the program for which the property is requested has long-term viability.
- A statement that considerations of design, layout, geographic location, age, state of repair, and expected maintenance costs of the requested property clearly demonstrate that the transfer will prove more economical over a sustained period of time than **acquiring** a new facility.
- . A statement certifying that the size and location of the property requested is consistent with the actual requirement.
- . A statement that fair-market-value reimbursement to the Military Department will be made within two years of the initial request for the property, unless this obligation is waived by the Office of Management and Budget (OMB) and the Secretary of the Military Department or a statute provides for a **non-reimbursable** transfer.
- A **statement that the** requester agrees to accept the care and custody costs for the property on the date the property is available for transfer, as determined by the Military Department.

The following criteria from the Federal Property Management Regulations (41 CFR § 101-47.201-2) shall be used by the Military Department in reviewing applications from DoD and Federal requesters:

- The requirement upon which the request is based is both valid and appropriate.
- The proposed Federal use is consistent with the highest and best use of the property.
- The requested transfer will not have an adverse impact on the transfer of any remaining portion of the base.
  - *In making the decision on the appropriateness of the use, the highest and best use, and whether the proposed transfer will have an adverse impact of the disposal of the remainder of the base, the Military Department is encouraged to discuss the proposed use with the LRA.*
- *The* proposed transfer will not establish a new program *or* substantially increase the level of an Agency's existing programs.
- The application offers fair market value for the property, unless waived.
- The proposed transfer addresses applicable environmental responsibilities to the satisfaction of the Military Department.
- The proposed transfer is in the best interest of the Federal Government.

***What criteria are used to evaluate DoD and Federal requests for property?***

## **Identifying Interests in Real Property and Reuse Planning**

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Requests from DoD Components should be forwarded by the Secretary of the Military Department responsible for the installation to the Deputy Under Secretary of Defense (Industrial Affairs and Installations) for review before final approval by the Military Department of the application.

Should competing demands arise (e.g., two Federal Agencies submit *acceptable* applications for the same property), the responsible Military Department will resolve the conflict. The following additional factors should be considered:

- The needs of the military to carry out its mission.
- The proposal's potential for economic development and job creation.
- The LRA's comments.
- Other factors in the determination of highest and best use.

### **3.2.3 Making final determinations**

*When does the Military Department decide that property is available for non-Federal use?*

The responsible Military Department shall make determinations of excess and surplus property within 100 days of the notice of availability, and shall inform the LRA of its determinations. If requested by the LRA, the Military Department may postpone this determination for no more than six months after the date of approval of closure or realignment.

- Extensions beyond six months can only be granted by the Deputy Under Secretary of Defense (Industrial Affairs and Installations) and will only be granted in unusual circumstances, with good cause shown.
- Extensions of the deadline for surplus determination should be limited to the portions of the installation on which there is an outstanding interest or controversy. Every effort should be made to make surplus decisions on as much of the installation as possible, within the specified timeframes.
- Surplus determinations for previously announced base closures should have already been made unless an extension has been granted by the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

#### **RECONSIDERATION OF SURPLUS DETERMINATION**

At the discretion of the Military Department, a surplus determination may be withdrawn and a request reconsidered, when a Federal request is not made in a timely fashion, or when an LRA requests that the denial of a Federal request be reconsidered.

- Requests for transfer shall be made to the Military Department, provided that property disposal has not already occurred, and the Military Department will notify the LRA of the request. Review of the request must employ the criteria specified in Section 3.2.2 above.
- Comments received from the LRA and the time and effort invested by the LRA in the planning process should be considered when the Military Department is reviewing a late request. Generally, the Military Department should not entertain such a request unless the requested transfer is included in the redevelopment plan.

### 3.3 IDENTIFYING INTERESTS IN SURPLUS PROPERTY

The Military Departments and the LRA will comply with the Redevelopment Act, as amended, in identifying interests of State and local governments, representatives of the homeless, and other interested parties in surplus Federal property.

*How are general property interests sought and identified?*

*Note: the provisions of the Redevelopment Act apply only to BRAC 95 bases and those BRAC 88,91, and 93 bases whose LRAs properly elected to follow the Redevelopment Act procedures. All other BRAC 88,91, and 93 bases are subject to the homeless assistance procedures established by Title V of the Stewart B. McKinney Homeless Assistance Act ("McKinney Act") and Title XXIX of Pub. L. 103-160 (see Section 3.6 for details). Homeless needs can only be addressed under one set of procedures; the Department of Defense and HUD generally will not treat portions of an installation under both the Redevelopment Act and the McKinney Act.*

The Redevelopment Act states specific **timelines** for LRA and HUD actions throughout the process. After consultation with the LRA and HUD, DoD, through the Director of OEA, may extend or postpone any deadline in the Redevelopment Act based upon a finding that it is in the interest of the communities affected by the closure of the installation.

#### 3.3.1 Publicizing the availability of property

**Once the surplus determination has been made, the responsible Military Department shall:**

- Provide information on the surplus real property to HUD and the installation's LRA. If there is no recognized LRA at the time of the surplus determination, the Military Department will provide this information to the Chief Executive Officer of the appropriate State.
- Publish information about the surplus real property in the *Federal Register* and in a newspaper of general circulation in the communities in the vicinity of the installation. The published information shall generally be the same as that furnished to DoD Components and Federal Agencies in the notice of availability.
- As soon as practicable after the list of installations recommended for closure or realignment is approved, DoD, through OEA, should recognize an LRA for the installation. Upon recognition, OEA shall publish information about the LRA (including name, address, telephone number, and point of contact) in the *Federal Register* and in a newspaper of general circulation in the vicinity of the installation.

#### 3.3.2 Soliciting notices of interest

The Redevelopment Act requires that the LRA receive notices of interest from State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the installation ("interested parties"). The representative of the homeless need not be located in the vicinity of the installation as long as the representative proposes to serve the homeless population in the vicinity of the installation. The LRA also has the option to solicit notices of interest from State and local governments and other interested parties that are interested in facilities that are eligible for public benefit transfers under the Federal Property and Administrative Services Act of 1949 or the

*How are potentially interested parties made aware of the available property?*

## Identifying Interests in Real Property and Reuse Planning

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Surplus Property Act (49 U.S.C. 47151-47153), such as schools, public health facilities, parks, prisons, historic monuments, etc. It is in the LRA's interest to identify all interests in the property before developing the redevelopment plan. If the Military Department receives any notices of interest, it should provide them to the LRA for consideration as potential uses in its redevelopment planning.

Representatives of the responsible Military Department, the BTC, and the OEA Project Manager should assist the LRA in identifying interests in base property (including how to conduct outreach efforts) and addressing expressions of interest in its redevelopment plan. The Military Department, BTC, and OEA Project Manager should also assist the LRA in identifying and enlisting the aid of Federal Agencies that sponsor or approve public-purpose property conveyances that could support the redevelopment plan.

**What are the  
timeframes for  
expressing interest  
to the LRA?**

### LOCAL TIMEFRAMES

Although the process may begin at any time, the local reuse planning process and identification of interests in surplus property must begin no later than the completion of Federal screening which is deemed to be the date of the *Federal Register* publication of available surplus property (*for pre BRAC 95 installations, the LRA is not required to wait for a surplus determination to proceed with local screening and HUD will, on a case by case basis, determine whether these requirements have been fulfilled*). The deadline for expressing interest will be set by the LRA, but it can be no earlier than three months and no later than six months after the LRA's publication in the local newspaper, which should be made no later than 30 days after the Military Department's surplus publication as described below (*for pre-BRAC 95 installations that have elected to follow the Redevelopment Act, the LRA shall accept notices of interest for not less than 30 days*). The LRA is responsible for informing interested parties of its process, including the required format, content, deadline, and address for submitting formal notices of interest.

The LRA is required to publish the details of its process in a newspaper of general circulation in the vicinity of the installation and notify the Military Department of the deadline. Publication and notification of the deadline shall occur no later than 30 days after the Military Department's *Federal Register* surplus publication (see Section 3.3.1). LRAs are strongly encouraged to make this publication as soon as possible within the permissible 30-day period in order to expedite the disposal process.

### OUTREACH

**What types of  
outreach will the  
LRA conduct?**

The Military Department and the LRA should assist State and local governments, representatives of the homeless, and other interested parties in evaluating surplus property at the installation. The LRA should coordinate this evaluation with the installation commander to ensure that there is no disruption to any ongoing military activity at the base. Furthermore, the LRA is required to conduct outreach efforts to provide information on the identified surplus real property to representatives of the homeless. LRAs are encouraged to contact the local HUD field office which can provide an updated list of persons and organizations that are representatives of the homeless in the vicinity of the installation, and the LRA should invite these representatives of the homeless to participate in the reuse planning process. These meetings should be in conjunction with a workshop, seminar, or forum in which the LRA and representatives of the homeless discuss homeless needs in the vicinity of the

installation and whether there is appropriate property at the installation to meet those needs. The LRA is responsible for formulating and undertaking this outreach effort to make redevelopment planning as inclusive as possible.

The LRA should, while conducting its outreach efforts, work with the Federal Agencies that sponsor public benefit transfers under the Federal Property and Administrative Services Act of 1949 and the Surplus Property Act. Those Agencies can provide a list of parties in the vicinity of the installation that might be interested in and eligible for public benefit transfers. The LRA should make a reasonable effort to inform such parties of the availability of the property and incorporate their interests within the planning process. Expressions of interest from such parties are not required to be incorporated into the redevelopment plan, but must be considered.

### 3.3.3 Information required in a notice of interest

For representatives of the homeless, a notice of interest (to the LRA) must contain *the* following information

- A description of the proposed homeless assistance program, including the purposes to which the property or facility will be put, which may include uses such as supportive services, job and skills training, employment programs, shelters, transitional or unlimited-stay housing, food and clothing banks, treatment facilities, or any other activity that clearly meets an identified need of the homeless.
- . A description of the need for the program.
- . A description of the extent to which the program is or will be coordinated with other homeless assistance programs or public uses in the communities in the vicinity of the installation.
- . Information about the physical requirements necessary to carry out the program and a listing of potential buildings that meet those requirements.
- A description of the representative of the homeless that is submitting the notice, including its capacity for carrying out the program and its financial plan for the program's implementation.
- An assessment of the time required to begin carrying out the program.

LRAs may publicly disclose the identity of the representative of the homeless which submitted a notice of interest. But, an LRA may not publicly release any information submitted to the LRA regarding the capacity of the representative of the homeless to carry out its program, a description of the organization, or the organization's financial plan for implementing the program without the consent of the homeless provider, unless such a release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located. The notices of interest from entities other than representatives of the homeless should specify the name of the entity and specific interest in property or facilities, along with a description of the planned use. LRAs may also wish to request that these entities submit a description of the planned use to the sponsoring Federal Agency as well.

*What supporting information must accompany a notice of interest in property?*

*Are there specific information requirements for homeless assistance providers?*

***What are the elements of a redevelopment plan?***

***How are homeless assistance needs incorporated?***

### 3.4 PREPARING THE REDEVELOPMENT PLAN AND ACCOMMODATING HOMELESS ASSISTANCE NEEDS

Within nine months after the deadline for notices of interest, the LRA is required to complete its redevelopment plan for the closing installation, and submit its application (containing the redevelopment plan and proposed homeless assistance) to HUD and the Military Department. In the event no application is submitted and no extension is requested as of the deadline to submit an application, and the State turns down a written DoD request for the State to become the LRA, the absence of such application will trigger an adverse determination by HUD effective on the date of the elapsed deadline. Under these conditions, HUD will follow the process identified in paragraph 3.5.3.

Under the provisions of the Redevelopment Act, the LRA must provide an opportunity for public comment before submitting its plan to HUD as part of its application for homeless assistance conveyances. At least one public hearing should be held and a summary of comments received during the process of developing the application should be submitted with the application.

#### 3.4.1 Considering and accommodating notices of interest

Under the Redevelopment Act, the LRA is required to consider the notices of interest received from the representatives of the homeless and from other interested parties, then **balance** those interests with the community's economic development needs.

In considering and accommodating homeless assistance needs, the LRA should be **mindful** of the criteria used by HUD in evaluating the homeless assistance provisions of redevelopment plans (see Section 3.5.2). In particular, the LRA should ensure that its planning effort is consistent with the Consolidated Plan prepared for HUD's Community Development Block Grant program (CDBG), or equivalent plan for addressing homeless needs in the vicinity of the installation.

LRAs were required to provide special consideration for those representatives of the homeless at BRAC 88,91, and 93 bases that were awaiting approval from the Department of Health and Human Services (HHS) on applications pending under Title V of the McKinney Act when the LRA elected to proceed under the Redevelopment Act. LRAs were **required** to specifically address **all** pending requests in their redevelopment plan and **their** proposed homeless assistance submitted to HUD (see Section 3.5).

#### SPECIAL CONSIDERATION

***What are the requirements for approved McKinney Act applications?***

In the case of representatives of the homeless whose applications have been approved by HHS under Title V of the McKinney Act, but the property applied for had not been transferred when the LRA elected to proceed under the Redevelopment Act, the LRA was required, in its redevelopment plan, to accommodate the provider with one of the following:

- The property requested;
- . Properties, on or off the installation, that are substantially equivalent to those requested;
- . Sufficient funding to acquire such substantially equivalent properties;

- Services and activities that meet the needs identified in the application; or
- . A combination of the properties, funding, and services and activities described above.

### Case Studies of Successful Homeless Assistance Planning

*The redevelopment planning process must include the identification of homeless needs and reflect a balance with local community and economic development needs. LRAs will need to establish linkages to local homeless providers as a catalyst for effective planning. The following case studies illustrate two effective community-based efforts.*

**Charleston Naval Base, Charleston, SC**—At the request of the Building Economic Solutions Together (BEST) Committee, a tri-county consortium of homeless providers was organized. The Task Force, representing over 75 local provider organizations, attempted to coordinate all homeless interests in the site under one planning process. Assistance and reuse follow-up is focused on transitional housing, a medical clinic, a service center, child-care facilities, a dining hall, warehousing, and job training sites. All of these uses were consistent with the efforts of, and fully supported by, the BEST Committee.

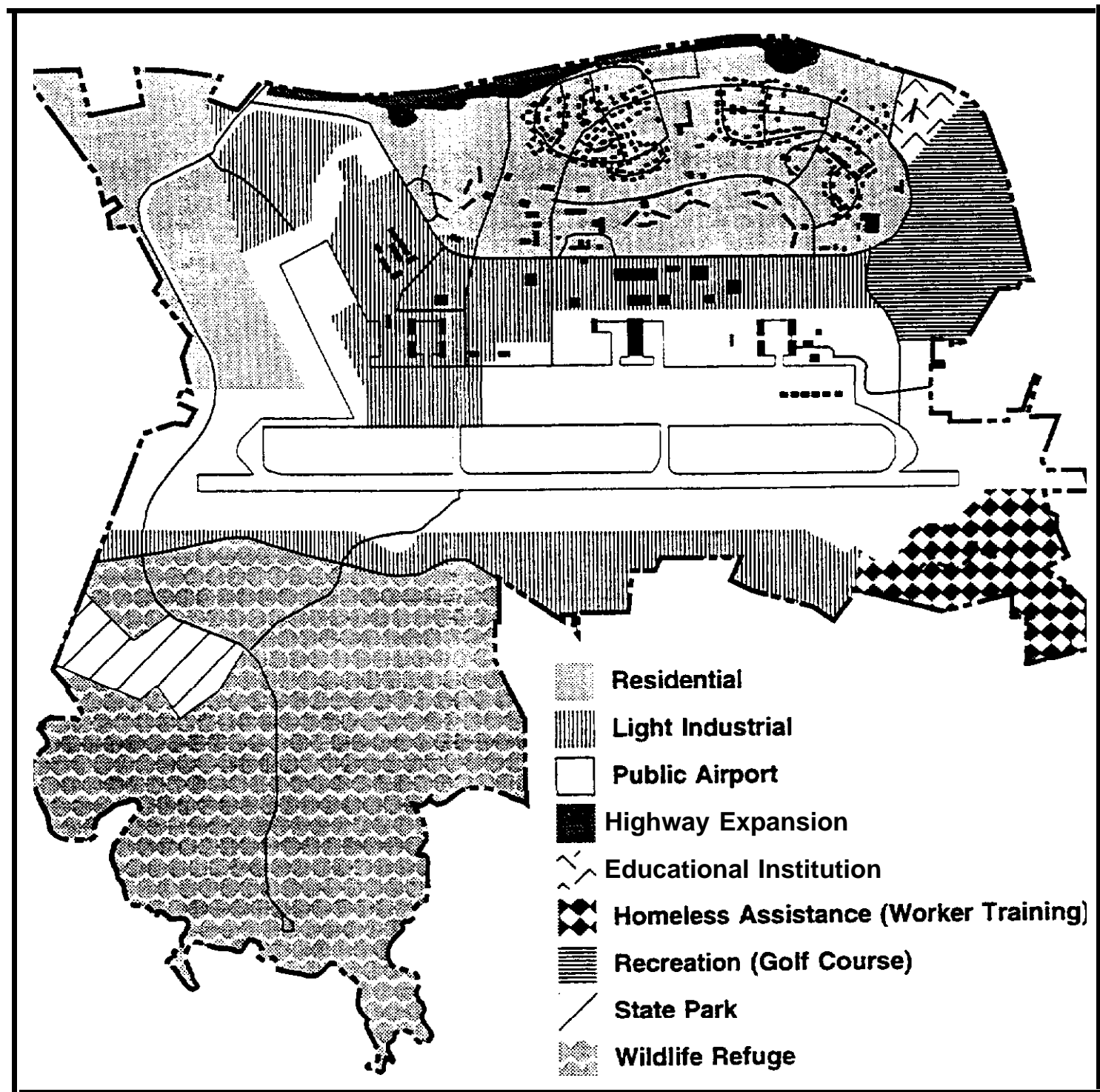
**Homestead AFB, Homestead, FL**—Hurricane Andrew greatly exacerbated a housing supply problem that had historically plagued the area. South Dade's homeless population was estimated at 1,800 when the reuse plan was developed. The reuse committee's subgroup on housing and the homeless teamed with Dade County's Homeless Trust to bring together areawide homeless providers to identify, negotiate, and lead public outreach. The Trust is a quasi-governmental group that was created in 1992 to oversee the county's homeless policies, as well as the moneys raised through a county meal-and-beverage tax that are given to homeless providers. Strong leadership from the Deputy Assistant Secretary of HUD, who was assigned to the area to coordinate the Federal response to the hurricane rebuilding, assisted the effort. The result 75 acres were set aside for homeless use; mental health, substance abuse, vocational training, transitional housing and other services will also be made available to the residents.

#### 3.4.2 Contents of the redevelopment plan

The redevelopment plan is a document created by the LRA to meet the needs of its member jurisdictions. The format and contents of the redevelopment plan are not prescribed—they will vary widely depending upon the individual circumstances unique to each local community organization and facility to be disposed. It will often be structured to serve as a “blueprint” for local base redevelopment and economic adjustment activity as well as provide input for the Military Department's NEPA analysis. Remember that each reuse plan is different—it needs to be custom-designed by the LRA to meet the individual needs of the community. While there isn't any one format or model for a redevelopment plan, often they contain many of the following elements:

- A statement of the problem/impact (should be kept to a minimum).
- An assessment of the strengths and weaknesses of the regional economy in which reuse will occur.
- A marketing strategy for attracting private sector tenants.

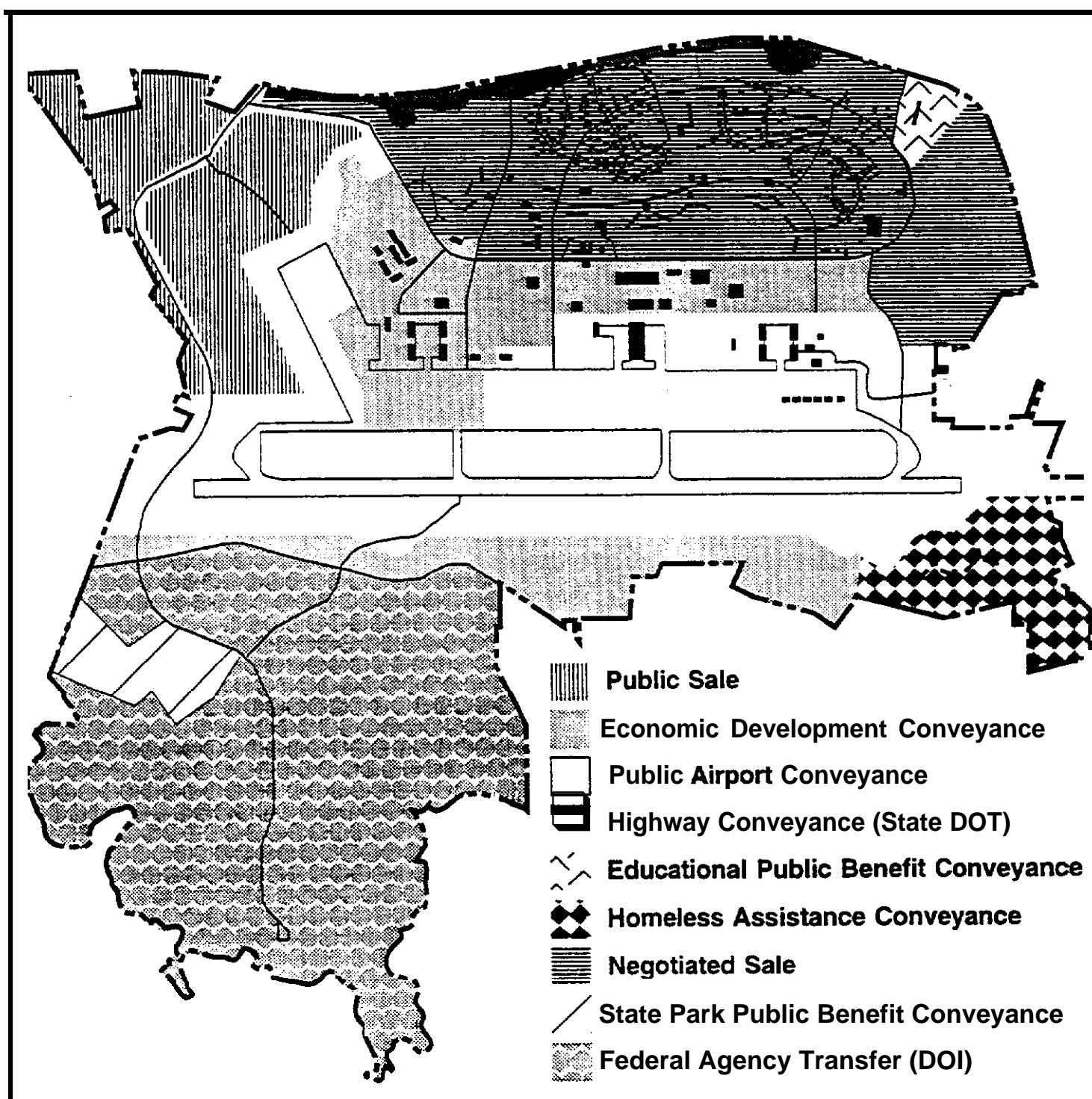
*What information is generally found in a redevelopment plan?*



**Figure 3-4. Example Redevelopment Plan—Land-Use Map**

- A determination of infrastructure requirements and how they are to be financed.
- An articulation of community goals, both short- and longer- term, particularly as they relate to job creation and economic activity. This should include a discussion of how the community goals are balanced with homeless assistance needs.
- An identification of proposed land uses supportive of the community's goals and any specifically identified uses along with the intended conveyance method for achieving the reuse (e.g., previously approved Federal requests or DoD cantonment areas, public benefit conveyances, economic development conveyances, public or negotiated sales; see Section 2.3 and Appendix A). With respect to public benefit conveyances, the LRA's plan makes a recommendation on uses. During the formal public benefit screening process, sponsoring Federal Agencies make a recommendation on *users*.





**Figure 3-5. Example Redevelopment Plan-Conveyance Methods**

- . An implementation strategy and an identification of the organization needed to carry out the plan.

Figures 3-4 and 3-5, respectively, show the proposed land uses and conveyance methods contained in a fictional redevelopment plan. This notional plan combines a broad variety of public, private, commercial, and recreational land uses to achieve a balanced reuse program.

During redevelopment planning, property recipients and/or uses and conveyance methods may also be identified; for example, the State park, wildlife refuge, highway expansion, and public airport land uses are most straightforwardly achieved through specific conveyance methods that can only be granted to certain agencies (i.e., State Department of Parks and Recreation, Department of the Interior, State Department of Transportation, local airport authority) that should have already been identified. Other land uses (e.g., light

industry) can be achieved through various conveyance methods and the users may not be specifically identified until the implementation phase of redevelopment.

Figure 3-5 emphasizes the LRA's proposed conveyance methods for achieving reuse. Where appropriate, public-purposes conveyances are used; for example, the community college will acquire a facility through an educational public benefit conveyance. In addition, the LRA proposes to acquire a large segment of the developed area of the base by an Economic Development Conveyance, for light industrial uses (see Figure 3-4). On the other hand, in the undeveloped area of the installation, the LRA will achieve light industrial and residential land uses through zoning and public sale, because the LRA does not want to assume development responsibilities for that area. The developed residential area and golf course will be conveyed by negotiated sale to the local government for low-income housing and recreation, respectively, and a homeless assistance conveyance will be used to satisfy a local need for worker training.

Comparison of Figures 3-4 and 3-5 shows that a broad variety of land uses and conveyance methods can and should be used to achieve reuse of an installation. A particular land use can be achieved through multiple conveyance methods and, conversely, a single conveyance method can be used to obtain multiple land uses. Effective redevelopment depends on selecting a combination of land uses and conveyance methods that is appropriate to the local economic environment.

Figure 3-6 illustrates the evolution of interests and proposed uses for property that can occur throughout the redevelopment planning process.

### 3.5 REVIEW OF HOMELESS ASSISTANCE APPLICATION FOR APPROVAL

#### 3.5.1 Application to HUD

**What information  
does HUD require?** ||

Under the provisions of the Redevelopment Act, the LRA is required to submit its application containing the redevelopment plan and proposed homeless assistance to the Secretary of the Military Department and the Secretary of HUD. This application will show how the LRA has addressed the needs of the homeless in the vicinity of the installation and must, at a minimum, include the following:

- A copy of the redevelopment plan with a summary of any public comments received during the process of developing the plan.
- A description of the homeless assistance needs in the units of general local government that comprise the LRA and a listing of those political jurisdictions.
- A copy of each notice of interest for use of buildings and property to assist the homeless, including a description of the manner in which the plan addresses the interest expressed, and, if the plan does not address the interest, an explanation. If the LRA decides not to accommodate a particular notice of interest, the application must include an explanation of why the LRA determined not to support the notice of interest. The reasons given in the explanation may include the impact the program would have on the community.

- . A description of the impact that the implemented redevelopment plan will have on the community.
- . A summary of the LRA's outreach actions to representatives of the homeless including a list of the representatives the LRA contacted during the outreach process.
- . Information about the property proposed for homeless assistance purposes, including infrastructure and the availability of services and utilities.
- . A description of the proposed activities to be carried out on or off the installation and a discussion of how these activities meet a portion or all of the needs of the homeless.
- A description of how buildings, property, funding, and/or services either on or off the installation will be used to meet the needs of the homeless and an explanation of the suitability of the buildings and property for that use.
- . An assessment of the manner in which the application balances the needs of the homeless and the needs of the communities in the vicinity of the installation for economic and other development.
- . An explanation of how the application is consistent with the Consolidated Plan or equivalent long-term plan for addressing homeless needs in the vicinity of the installation.
- Copies of any legally binding agreements that the LRA proposes to enter into with representatives of the homeless.

### 3.5.2 HUD review of the application

HUD must complete its review of the LRA's application (with respect to the expressed homeless interests) within 60 days after its receipt of a completed application. It will then notify the Military Department and the LRA of its findings. In particular, HUD will determine whether the application and the redevelopment plan, with respect to expressed homeless interests:

- . Takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to assist the homeless in such communities, and the suitability of the buildings and property covered by the redevelopment plan for the use and needs of the homeless in such communities.
- Takes into consideration any economic impact that the homeless assistance provisions of the plan have on the communities in the vicinity of the installation, including
  - Whether the plan is feasible in light of demands that would be placed on available social services, police and fire protection, and infrastructure in the community.

***What factors does HUD consider in reviewing an application ?***

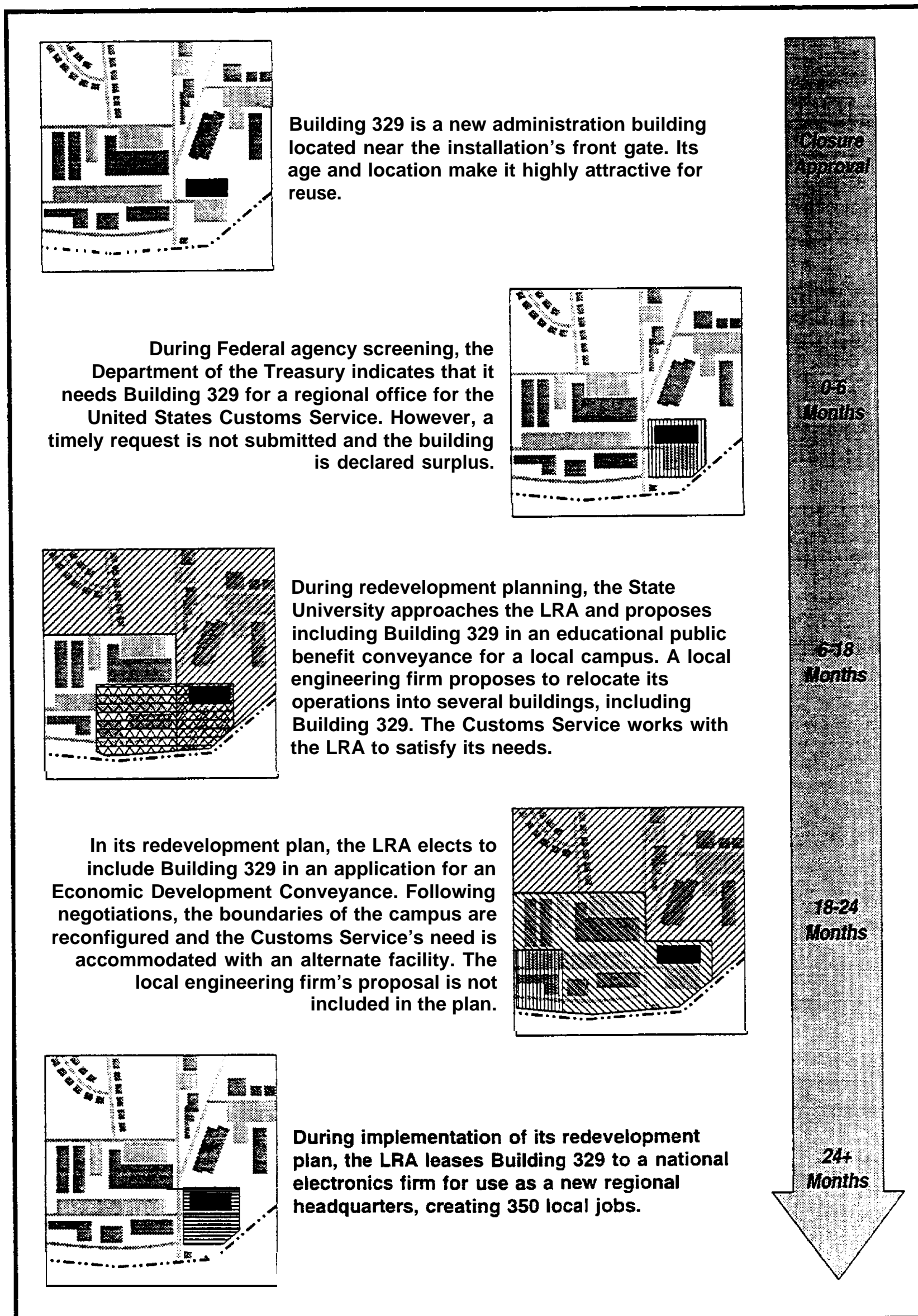


Figure 3-6. Evolution of interests and Uses for a Notional Facility

- Whether the selected notices of interest are consistent with the Consolidated Plan(s) or any other existing housing, social service, community, economic, or other development plans adopted by the political jurisdictions in the vicinity of the installation.
- Specifies the manner in which the buildings, property, funding, and/or services on or off the installation will be made available for homeless assistance purposes.
- **Balances**, in an appropriate manner, a portion or all of the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities.
- Was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation and whether the **outreach** requirements have been fulfilled by the LRA. HUD will carefully review the outreach process to ensure that the LRA has adequately advertised the availability of installation properties to representatives of the homeless and may compare the list of homeless representatives contacted by the **LRA** against contacts maintained by HUD.

In the course of the review, the Secretary of HUD should take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan. HUD may **also** consult and negotiate with an **LRA** before or during its review to resolve any concerns, such as a preliminary determination that the application and plan do not meet relevant requirements. The LRA may modify the redevelopment plan and its application in accordance with such negotiations and consultations.

At the completion of the review, HUD will provide its written determination to the **LRA** and the Secretary of the Military Department. If the Secretary of HUD determines that the application does not meet the review criteria, the Secretary will also provide a summary of the deficiencies in the application, an explanation of the determination, and a statement of the actions needed to address the determination.

### 3.5.3 Revision of the application and redevelopment plan

**The** LRA will be given 90 days to address HUD's determination and submit a revised application, if necessary. After reviewing the LRA's revised application, HUD will report to the Military Department and to the LRA on the results of its review within 30 days. Failure to submit a revised application (or to obtain an extension) shall result in a final determination, effective 90 days from the LRA's receipt of HUD's preliminary determination, that the application fails to meet HUD's review criteria.

**Can the LRA revise its application and plan?**

If HUD determines **the** revised application is unacceptable or if no resubmission is received, HUD will review the original application including the notices of interest submitted by representatives of the homeless. **In** addition to reviewing the original application, and when no original application was submitted, HUD:

- . Shall consult with the homeless representatives, if any, for the purpose of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless. This

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consultation can include a request that the representatives of the homeless submit information regarding its program as outlined in Section 2905(b) (7)(L)(ii) of DBCRA 90, as amended;

- May consult with the applicable Military Department to determine the suitability of the buildings and property at the installation for use to assist the homeless; and
- May otherwise consult with representatives of the homeless and other parties as necessary.

Within 90 days of its receipt of a revised application which HUD previously determined did not meet the review criteria, HUD shall, based upon its reviews and consultations, notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless, and the extent to which the revised application meets the review criteria.

In the event that an LRA does not submit a revised application, HUD shall, based upon its reviews and consultations, notify DoD and the LRA of the buildings and property at the installation that HUD determines are suitable for use to assist the homeless either:

- . Within 190 days after HUD sends its preliminary notice of adverse determination if an LRA has not submitted a revised application; or
- Within 390 days after the Military Department's publication of its surplus determination, if no application has been received and no extension has been approved.

If HUD approves the LRA's application, the Military Department, upon notice of HUD's determination, will dispose of buildings and property at the installation in accordance with the record of decision or other NEPA decision document prepared for the installation.

If the LRA's application does not meet the review criteria, upon notice from HUD regarding the suitability of property and/or the extent to which the LRA's application meets the criteria, DoD will dispose of the buildings and property in consultation with HUD and the LRA.

***How is property conveyed for homeless assistance purposes?***

HUD's approval of the LRA's application in no way dictates what property conveyance methods should be used to transfer property to accomplish the uses outlined in the redevelopment plan. Rather, the Military Department, as the disposal authority, determines what disposal method should be used. For property designated for homeless assistance purposes, one such method is a homeless assistance conveyance (see Section 2.3 and Appendix A). Under a homeless assistance conveyance, property can be conveyed at no cost, either to the LRA or directly to the representative(s) of the homeless. The Military Department does not need approval from HUD to dispose of property using this authority.

- . Under the Redevelopment Act, the LRA shall be responsible for the implementation of and compliance with legally binding agreements under the application.

- . If a building or property reverts to the LRA under a legally binding agreement under the application, the LRA shall (according to the Redevelopment Act) take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. An LRA is not required to utilize the building or property to assist the homeless.

#### 3.5.4 Determining eligibility to receive property under public-purpose conveyances

No later than the LRA's submission of its redevelopment plan, the Military Department should formally notify the appropriate Federal sponsoring Agencies of the availability of the property for their screening under the Federal Property Management Regulations. *Remember, the LRA has made a recommendation on use, and the sponsoring Agencies will make a recommendation on the user.* This notification should be based upon the LRA's redevelopment plan. The Federal sponsoring Agencies should formally notify eligible public and non-profit parties that the property is available for public use. Any party requesting this property must prepare an application for use of the property in accordance with the rules of the sponsoring Federal Agency and submit the application to this Federal Agency. In approving any application for public benefit or other public-purpose conveyance of the property, the Military Department will exercise its discretion based on the recommendation of the appropriate Federal sponsoring agency and the LR4, as well as other relevant factors (e.g., environmental impacts and condition of the property). Only in unusual circumstances will a proposal be considered if the application for property is not consistent with the redevelopment plan. At the request of the LRA, the Military Department may conduct the State and local public benefit screening at any time after the Military Department's publication of surplus property.

*How are recipients of public-purpose conveyances identified?*

#### 3.6 ACCOMMODATING HOMELESS ASSISTANCE NEEDS UNDER TITLE XXIX OF PUB. L. 103-160 (BRAC 88,91, AND 93 BASES)

This section outlines the procedures for the identification of real property to fulfill the needs of the homeless that were created by Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. § 11411), as implemented by Section 2905(b)(6) of Pub. L. 101-510 and Section 204(b)(6) of Pub. L. 100-526, according to the amendments in Title XXIX of Pub. L. 103-160. These procedures apply to BRAC 88, 91, and 93 bases for which the LRA did not choose to provide for the homeless under the alternate procedures in Section 2905(b)(7) of Pub. L. 101-510, as amended by Pub. L. 103-421, the Redevelopment Act. The alternate procedures apply to BRAC 95 bases and those BRAC 88,91, and 93 bases for which the LRA chose to follow the Redevelopment Act (see Sections 3.3–3.5 for details on this procedure).

*How are homeless assistance needs accommodated at BRAC 88,91, and 93 bases?*

The surplus determination for installations covered by this section should have been made prior to publication of the rule, unless a postponement of the determination was requested by the LRA and approved by the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

Not later than the date of the surplus determination, the Military Department shall complete any determinations or surveys necessary to identify those properties available to assist the homeless. The Military Department shall submit the list of available properties to HUD. HUD shall make a determination of the suitability of each property to assist the homeless in accordance with the



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McKinney Act. Within **60** days from the date of receipt of the information from the Military Department, HUD shall publish a list in the *Federal Register* of suitable properties that shall become available when the base closes.

The listing of properties in the *Federal Register* under this procedure shall contain the following statement. *[The listing of 1988 base closure properties that will be reported to HUD shall refer to Section 204(b)(6) of Pub. L. 100-526 instead of Section 2905(b)(6) of Pub. L. 101-510]:*

*The properties contained in this listing are at closing and realigning military installations. This report is being accomplished pursuant to Section 2905(b)(6) of Pub. L. 101-510, as amended by Pub. L. 103-160. In accordance with Section 2905(b)(6), this property is subject to a one-time publication under the McKinney Act after which property not provided to homeless assistance providers shall not be published again unless there is no expression of interest submitted by the local redevelopment authority in the one-year period following the end of the McKinney screening process pursuant to this publication.*

After the surplus determination, the Military Departments shall, unless already completed, sponsor a workshop or seminar, where feasible, prior to publication by HUD of the available properties in the *Federal Register*, in communities that have closing or realigning bases.

Providers of assistance to the homeless shall have 60 days from the date of the *Federal Register* publication in which to submit to HHS expressions of interest in any of the listed properties. If a provider indicates an interest in a listed property, it shall have an additional 90 days after submission of its written notice of interest to submit a formal application to HHS, a period that HHS can extend. HHS shall then have 25 days after receipt of a completed application to review and complete all actions on such applications.

During this screening process (from 60 to 175 days following the *Federal Register* publication, as appropriate), disposal Agencies shall take no final disposal action or allow reuse of property that HUD has determined suitable and that may become available for homeless assistance unless and until:

- No timely expressions of interest from providers are received by HHS;
- . No timely applications from providers expressing interest are received by HHS; or
- HHS rejects all applications received for a specific property.

The Military Department should promptly ~~inform~~ the affected LRA, the governor of the State, local governments, and Agencies that support public benefit conveyances of the date that surplus property will be available for community reuse if:

- No provider expresses an interest in a property to HHS within the allotted **60 days**;
- . There are expressions of interest by homeless assistance providers, but no application is received by HHS from such a provider within the subsequent



90-day application period (or within the longer application period if HHS has granted an extension); or

- HHS rejects all applications for a specific property at any time during the 25-day HHS review period.

The LRA shall have one year from the date of notification to submit a written expression of interest to incorporate the remainder of the property ~~into~~ a redevelopment plan.

During the allotted one-year period for the LRA to submit a written expression of interest for the property, surplus properties not already approved for homeless use shall not be available for homeless assistance. The surplus properties will also not be advertised by HUD as suitable during these one-year periods. The surplus property may be available for interim leases consistent with existing leasing regulations and guidance.

If the LRA does not express in writing its interest in a specific property during the allotted one-year period, the disposal Agency shall again notify HUD of the date of availability of the property for homeless assistance. HUD may then list the property in the *Federal Register* as suitable and available after the base closes following the procedures of Title V of the McKinney Act.

The listing of properties in the *Federal Register* under this procedure shall contain the following statement. [*The listing of 1988 base closure properties that will be reported to HUD shall refer to Section 204(b)(6) of Pub. L. 100-526 instead of Section 2905(b)(6) of Pub. L. 101-510*]:

*The properties contained in this listing are at closing and realigning military installations. This report is being accomplished pursuant to Section 2905(b)(6) of Pub. L. 101-510, as amended by Pub. L. 103-160. In accordance with Section 2905(b)(6), this property is subject to a one-time publication under the McKinney Act after which property not provided to homeless assistance providers will not be published again unless there is no expression of interest submitted by the local redevelopment authority in the one-year period following the end of the McKinney screening process pursuant to this publication.*

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